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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,402	09/11/2003	Jong Woog Lee	7950.010.00-US	3759
30827	7590	12/16/2005		
MCKENNA LONG & ALDRIDGE LLP 1900 K STREET, NW WASHINGTON, DC 20006			EXAMINER LEUNG, PHILIP H	
			ART UNIT	PAPER NUMBER
			3742	
DATE MAILED: 12/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

TWR

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/659,402	LEE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Philip H. Leung	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 28-57 is/are pending in the application.
- 4a) Of the above claim(s) 1-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-33, 42 and 46-49 is/are rejected.
- 7) ☒ Claim(s) 34-41, 43-45 and 50-57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3-3, 9-30 &amp; 11-19-04 and 7-21-2005</u>                                | 6) <input type="checkbox"/> Other: ____.                                    |

### DETAILED ACTION

1. Applicant's election without traverse of Group II, claims 28-57 in the reply filed on 9-28-2005 is acknowledged.

2. Claims 1-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 9-28-2005.

3. The drawings filed 9-11-2003 are acceptable.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 28, 29, 42, 46 and 47 are rejected under 35 U.S.C. 102(a) or 102(e) as being anticipated by Back et al (US 2003/0042252).

Back shows a combined toaster and microwave oven comprising: a body 27 forming an appearance thereof; a cavity 22 formed in the body, for accommodating objects to be cooked by using microwave; an electronic chamber 23 provided at a portion inside the body and in which

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electronic parts for applying microwave into the cavity are installed; and a toaster 30, wherein the toaster comprises: a toaster case 50 provided in the front of the electronic chamber and having slits 62 on both sides thereof; at least one tray assembly T having means for receiving and ejecting bread and preventing the bread from slanting (holder parts) (supporters 136-138); and a heater assembly 100 installed inside the toaster case, for heating the bread (see Figures 2-8 and paragraphs [0043] – [0078]).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 28-33, 42 and 46-49 are rejected under 35 U.S.C. 103(a) as being obvious over LG Electronics, Inc. (EP 1 213 948 A) (cited by the applicant), in view of Olving (US 2,631,523) or Origane (US 6,112,648).

LG Electronics, Inc. shows a combined toaster and microwave oven 110 comprising: a body forming an appearance thereof; a cavity formed in the body, for accommodating objects to

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be cooked by using microwave; an electronic chamber 200 provided at a portion inside the body and in which electronic parts for applying microwave into the cavity are installed; and a toaster 100, wherein the toaster comprises: a toaster case 102 provided in the front of the electronic chamber and having slits on both sides thereof; at least one tray assembly 120 having means for receiving and ejecting bread; and a heater assembly 140 installed inside the toaster case, for heating the bread (see Figures 1-8 and paragraphs [0020] – [0034]). Therefore it shows every feature except that it does not explicitly state that the tray assembly 120 is capable of preventing the bread from slanting although it appears that the guides 148 obviously can perform the same. Anyway, Olving shows that it is notoriously old and well known in the art of toasters to use holder parts (59) with bent portions for holding slices of bread straight and in proper place during toasting (see Figure 1 and col. 4, lines 7-10). Origane also shows a toasters with movable guards 14 having bent portions 14a, 14b and 14c for preventing slanting of slices of bread regardless of its thickness (see Figures 3-9 and col. 1, line 49 – col. 2, line 9 and col. 4, line 24 – col. 5, line 24). It would have been obvious to an ordinary skill in the art at the time of invention to modify LG Electronics, Inc. to use a holder parts for keeping the bread slices straight and parallel to the heaters regardless of the bread thickness to achieve more uniform toasting result, in view of the teaching of Olving or Origane.

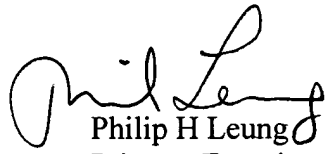
8. Claims 34-41, 43-45 and 50-57 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H Leung whose telephone number is (571) 272-4782. The examiner can normally be reached on flexible.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Philip H Leung  
Primary Examiner  
Art Unit 3742

P.Leung/pl  
12-8-2005